

BEFORE THE
ILLINOIS COMMERCE COMMISSION

Joint Petition for Resolution of Disputes)	
Relating to Billing Performance)	Docket No. 03-0769
Measurements)	

MCI'S REPLY COMMENTS ON DISPUTED ISSUES

MCI, Inc. ("MCI"), on behalf of itself and its Illinois operating subsidiaries,¹ pursuant to Notice issued by the Administrative Law Judge ("ALJ") May 7, 2004, hereby tenders its Reply Comments on Disputed Issues.

Introduction

SBC's April 14, 2004 "Initial Comments On Disputed Issues Arising From The 2003 Third Six Month Review" and "Initial Comments Of SBC Illinois On Disputed Issues Related To Billing Performance Measures" (together "SBC's Initial Comments") highlight the company's continued reluctance to implement performance measures ("PMs") that truly measure SBC's performance, rather than providing SBC a means by which to evade measurement of (and remedies for) its continued poor wholesale performance. The discussion that follows responds to SBC's Initial Comments (and specifically, the accompanying Affidavits of James D. Ehr ("Ehr Six-Month PM Aff." and "Ehr Billing PM Aff."), and explains why the Commission should reject SBC's arguments against the PM changes advocated by MCI, and order the PM modifications discussed herein and in MCI's April 14, 2004 Initial Comments ("MCI's Initial Comments"). In addition, MCI responds to the "Staff Reply Comments On Disputed

Issues Resulting From The Billing Performance Measure Collaborative And The Third Six-Month PM Review Collaborative” (“Staff Comments”) that were filed on May 19, 2004. Where Staff agrees with SBC’s position on an issue, MCI believes that its reply comments to SBC’s Initial Comments adequately explain why the Illinois Commerce Commission should adopt MCI’s position instead of the SBC and Staff positions. Therefore, MCI only specifically addresses a few of staff’s recommendations in further detail to address issues not previously raised by SBC. MCI incorporates by reference herein all arguments made in its Initial Comments and will not repeat them here.

Discussion

As noted in MCI’s Initial Comments, the disputed issues needing Commission resolution were set forth at pages 6-8 and Attachments A and B to the February 24, 2004 “Amended Joint Petition For Expedited Resolution Of Disputes Relating to Performance Measurements” (“Amended Joint Petition”). Generally, the issues fell into two categories: (1) disputes regarding currently-effective performance measurements (“PMs”), and (2) disputes regarding proposed PMs. As in MCI’s Initial Comments, for ease of reference, MCI includes its discussion of each disputed issue immediately following a recitation of the issue, first addressing disputed issues from the Third Six-Month Review, including disputes on currently effective PMs and disputes on proposed PMs, and second addressing disputes concerning Billing PMs. MCI has also noted the relevant paragraphs of the Ehr Six-Month PM Aff. and the Ehr Billing PM Aff. for the Commission’s convenience.

¹ MCI intervened in this case as WorldCom, Inc. d/b/a MCI. On April 20, 2004, WorldCom, Inc. merged with and into MCI, Inc. as a part of transactions contemplated by the Plan of Reorganization of WorldCom

A. Third Six-Month Review Disputed Issues.

Disputes on Currently Effective Performance Measurements

Disputed Issue 1: Deletion of PM MI 11 (Average Interface Outage Notification).

SBC Midwest has proposed to delete PM MI 11. MCI opposes deletion.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 10-11):

MCI disagrees with SBC's conclusion that because this metric has never carried remedies, it does not affect competition. CLECs have been infinitely reasonable in allowing some metrics to monitor whether performance is deteriorating, without requiring the imposition of remedies for such degradation in performance. The fact that CLECs have been reasonable in agreeing to some monitoring metrics without immediate remedies if service deteriorates does not mean that these reports are less critical to the CLECs. For example, if CLECs do not receive prompt notice of service outages, CLECs may be wasting resources on investigating the source of a problem when SBC has already determined that the source is within its part of the OSS interface.

MCI has agreed to elimination of other metrics in the latest six-month review, not because these metrics carried no remedies, or because SBC's performance was usually within benchmark, but because the metrics were either duplicative or no longer served their purpose in monitoring whether SBC was backsliding in its performance toward its competitor-customers post-271 approval. As they say in the stock market, past performance is not an assurance of future performance.

The expenditure of 8-10 hours a month (*see* Ehr Six-Month PM Aff. ¶ 11) to report PM MI 11 to customers that spend *billions* of dollars on services obtained from

under chapter 11 of the United States Bankruptcy Code.

SBC is not unreasonable, and the fact that this reporting activity is performed by “highly skilled Information Technology managers” at SBC (*id.*) may add to their education regarding the frequency and duration of the types of outages CLECs face, and thereby assist SBC in dealing with these problems more proactively. The Commission should accept MCI’s recommendation not to delete this metric.

MCI’s Reply To Staff (Staff Comments, pp. 7-10):

Staff disagrees with MCI’s request to retain the diagnostic measure. MCI’s position on this issue is adequately set forth above in MCI’s response to SBC’s position on this matter.

Disputed Issue 2: Increase in the UNE-P disaggregation benchmark in PM 13 (Order Process Percent Flow Through) from 95% to 98%.

All benchmarks in PM 13 proposed by SBC Midwest were agreed-to by all CLECs with the exception of the UNE-P benchmark. SBC Midwest has agreed to a benchmark of 95% for the UNE-P disaggregation. MCI and McLeod have proposed a benchmark of 98% for UNE-P.

MCI’s Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 12-18):

MCI disagrees with SBC that the retail comparison is flawed for this metric. SBC’s service representatives are submitting orders that are not handled by another person before they are accepted by SBC’s service order processing systems. This is synonymous with flow-through, and thus retail performance is an appropriate analog for comparison of CLECs’ ordering activity in the sense that what is entered into the wholesale service ordering system flows to the service order processor without another person retyping a field.

The Commission should be aware that SBC's *retail* flow-through results are normally well above 95%, and that SBC has paid remedies to MCI in other states (flow through is a region-wide metric in the Midwest, so MCI would have received remedies in Illinois if it had bought into SBC's toothless "compromise" remedy plan) because SBC's wholesale results did not achieve parity with retail results for UNE-P in August, November and December of 2003. In ¶ 15 of the Ehr Six-Month PM Aff., SBC provided only *wholesale* results for UNE-P flow-through. SBC's *retail* flow-through results for the same months are as follows:

PM 13	September 2003	October 2003	November 2003	December 2003	January 2004	February 2004
SBC Retail Results	97.57%	97.82%	98.44%	98.57%	98.61%	98.65%

MCI-specific results for UNE-P flow-through for the same period were above the proposed 98% benchmark, except for September 2003, when SBC achieved a 97.57% flow through rate. If parity results showed that SBC failed to achieve flow-through results in excess of 95% for retail services most of the time, SBC would have never proposed to move to the 95% benchmark. MCI will compromise at leaving UNE-P flow-through a parity metric, but as SBC's own CLEC results show, moving to a 95% benchmark standard would *lower* SBC's wholesale performance benchmark for five out of the six months reflected as the standard.

Moreover, the orders at issue are the orders that SBC itself defines as flow-through, not even total orders, so SBC can present no justification for why a 98%

benchmark, which represents what MCI's recent experience has been, and which is generally *below* most months of *retail* performance, is unreasonable. The MCI compromise of a 98% benchmark metric would actually excuse SBC from paying remedies as it does today, because its retail flow-through performance is higher than its UNE-P flow-through. MCI believes that the states within the SBC Midwest region "got it right" in using retail parity to judge UNE-P flow-through. In the Midwest, CLECs can see what they have long suspected, which is that *SBC's* representatives transmit an order to the service order processing systems without another representative manually intervening more often than occurs for *CLECs'* representatives.

Further, just because SBC is presently meeting its Firm Order Confirmation ("FOC") and Reject intervals as orders fall to manual (and thus need only meet longer FOC and Reject intervals to begin with, because these orders have fallen to manual handling) tells the Commission nothing about whether SBC will, in the future, retain the personnel levels necessary to achieve this level of performance.

Flow-through is critical because when CLECs' Local Service Requests ("LSRs") have to be rekeyed by an SBC service representative, there is an increased potential for errors that, as MCI's Initial Brief explained, will not be captured by SBC's admittedly flawed Order Accuracy Metric (PM 12), which does not compare the LSR with what SBC's service orders direct its provisioning and billing systems to implement. As for the impact of flow-through on order accuracy, results for SBC-Texas Order Accuracy PM 12.1 are telling. This is the same metric that MCI has been pressing SBC to implement in the SBC Midwest states because it (1) starts with the LSR; (2) separates the flow-through activity from the electronically-submitted orders that fall to manual handling; and (3)

electronically compares the LSR to the associated service orders for all orders rather than use a sample for manual comparisons. Results for Texas PM 12.1 reflect a 99.9% to 100% accuracy rate for flow-through orders from June 2003 to February 2004. In contrast, the results for orders that fell to manual handling ranged from 96.8% to 98.4% in this same time period. A parity metric that requires improvement to eliminate these percentage differences (about 1% or 2%) will mean better quality service to thousands of UNE-P customers because of higher flow-through. Parity metrics that foster higher UNE-P flow-through rates in the SBC region mean that fewer CLEC orders fall to manual handling, meaning that the risk of errors is not exacerbated by order volumes. Therefore, the difference between flow through and non-flow through rates on order accuracy might be even greater than the differences shown above.

MCI has no doubt that SBC will try to use flow-through as one of its many excuses not to implement CLEC Change Requests for OSS more quickly than SBC's usual snail's pace. However, the Commission should not accept this as an argument as to why flow-through rates should not be maintained at their current levels, let alone move to more consistent parity with what SBC achieves for its own end user customers' orders. The Commission should not allow SBC to backslide from current levels of performance on UNE-P flow-through. If the Commission refuses to impose a 98% benchmark, then it should, at bare minimum, maintain the existing retail parity measure.

MCI's Reply To Staff (Staff Comments, pp. 10-13):

Staff agrees with MCI that the benchmark should be set a 98% or retained at parity. MCI welcomes staff's support in ensuring that SBC does not backslide on current

performance by adopting a lower standard. Evidence of SBC's ability to comply with a 98% standard is provided in MCI's reply to SBC's Initial Comments.

Disputed Issue 3: Increase in benchmark for PM 100 (Average Time of Out of Service for LNP Conversions) from One Hour to Three Hours.

SBC Midwest has proposed to increase this benchmark to address expected impacts of Wireless Number Portability. MCI does not agree to increase the benchmark.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 19-21):

As MCI stated in its initial brief, SBC may delete PM 100 and retain only PM 101. However, MCI does not believe that the Commission should accept SBC's simple citation to the alleged increase in wireless ports as a reason to expand the acceptable outage interval from one to three hours after the NPAC (Number Portability Administration Center) receives the CLEC's activate message. For most wireline cuts, SBC receives plenty of notice on when the cutover will occur, and when to expect that the CLEC will notify NPAC. SBC has provided no proof that the increased volume of wireless ports has affected its service quality on wireline ports. Indeed, MCI would be surprised if the FCC ever concluded that requiring wireless ports would or should harm the wireline porting process. Both PM 100 and PM 101 (which MCI would have as the surviving PM, with the "High" Tier I and Tier II remedies moved to that retained metric) allow exclusions for NPAC errors -- but not SBC-caused errors -- if the overall porting system is stressed. SBC has neither proven that there is a problem, nor that if one does occur, why SBC should not be able staff effectively to address increased volumes that have been long warned by the FCC as forthcoming.

The Commission should deny SBC's request to modify the one-hour benchmark for PM 100.

MCI's Reply To Staff (Staff Comments, pp. 13-15):

Staff addresses Disputed Issue Numbers 3 and 4 together. See MCI's response to Issue 4 below.

Disputed Issue 4: Deletion of PM 101 (Percent Out of Service <60 Minutes).

SBC Midwest proposed deletion of PM 101. MCI opposes deletion.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 22-24):

As previously stated in MCI's Initial Brief, MCI would maintain this measure at its current standard, including the High remedies from PM 100. MCI refers the Commission to the explanation above regarding PMs 100 and 101 (Disputed Issue 3) as to why SBC has not adequately supported increasing the interval from 60 minutes to three hours.

MCI's Reply To Staff (Staff Comments, pp. 13-15):

Staff agrees with MCI that PM 101 should remain as the remedied PM with the current benchmark. MCI had also proposed that the "high" remedy from PM 101 be moved to PM 101 to replace the "medium" remedy applied to that metric. Staff may have not commented on this part of the proposal because the so-called "compromise remedy plan" adopted in the 271 proceeding keeps all remedies at the same level and only raises them when a certain number of metrics are missed, no matter how badly or how long the specific metric is missed. Not all remedy plans in SBC region contracts follow that scheme and MCI wants to clarify that the retention of the higher remedy on

the retained metric was part of MCI's willingness to agree to drop one of the metrics if the current benchmark was retained.

Disputed Issue 5: Deletion of PM 113 (Percentage of Electronic Updates that Flow Through the Update Process Without Manual Intervention).

SBC Midwest proposed deletion of PM 113. MCI opposes deletion.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 25-31):

The flow-through metric that SBC proposes to delete covers *all* updates, whether for facilities-based carriers or otherwise. SBC proposes retaining only the metric that covers updates for facilities-based carriers. MCI believes this measurement of flow-through for directory changes for both facilities-based and non-facilities-based carriers will ensure a greater degree of accuracy in their customers' directory listings, as well as timely updates. These are not duplicative measures, since PM 113 would not have been created if PM 112 had already covered the accuracy of non-facilities-based carriers' directory updates. Furthermore, PM 113 was a *proactive*, rather than reactive, accuracy metric. In addition, PM 112 is more dependent on CLECs bringing errors to SBC's attention, with SBC then evaluating whether the error was SBC's fault or not. On the other hand, PM 113 promotes the inclusion of customers' directory assistance information exactly as specified by the CLEC on the LSR.

Besides not capturing errors in changes for non-facilities based carriers, PM 112 only captures errors *after* the customer has already suffered them. Consequently, there is a need for two remedied metrics -- one that promotes greater flow-through for directory assistance changes that, particularly for business customers, have caused more orders to fall to manual (PM 112), and a second one that provides SBC an incentive to work

through training those service representatives who perform the reentry of LSR information for the hopefully dwindling number of orders that fall to manual handling (PM 113).

MCI's Reply To Staff (Staff Comments, pp. 15-17):

Staff disagrees with MCI that PM 113 should be retained. MCI's position on this issue is adequately set forth above in MCI's response to SBC's position on this matter.

Disputed Issue 6: Revisions to PM 117 (Percent NXXs Loaded and Tested Prior to the LERG Effective Date) to expand the scope.

MCI proposed revisions to PM 117. SBC Midwest opposes the changes.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 32-34):

It is necessary for MCI to correct SBC's claim that the test and load functions would each be measured separately under MCI's proposed revisions to PM 117. MCI wants SBC's update timeliness to be the main factor in judging the "miss" -- as is the case with most other ILECs that employ this metric. (MCI did not know that SBC was implementing this metric differently until this six month review.) The critical question is whether the NXX is loaded by the Local Exchange Routing Guide ("LERG") effective date. SBC's originally-proposed (and now withdrawn) exclusions -- which SBC still plans to implement -- relate to testing barriers for which MCI will not hold SBC accountable. Therefore, under MCI's proposal, loading without testing before the LERG effective date is a "pass" for the metric even if SBC could not test because of some delay on the CLEC's part. MCI's subject matter experts believe the information for testing numbers can quickly be provided once the NXX update occurs, but to wait for another LERG effective date will delay the process excessively.

MCI has asked for the inclusion of “rehomes” of NXXs in this metric because that is where most of the activity is occurring today -- not in new code openings. SBC’s own comments seem to prove that activity volumes are small because the loading of new and additional code activity has diminished. SBC’s collaborative discussions and testimony seem to keep discussing *new* codes, and appear to ignore that the NXX loading metrics have always described “additional NXX” loadings as a covered activity in SBC’s business rules. Further, in covering rehomes, the facilities problems that SBC cites as impeding its testing abilities should not occur because NXXs are typically being moved from association with one active switch to another.

Delays in facilities testing are often due to SBC’s provisioning intervals, coupled with the fact that CLECs expect facilities delivery by the LERG effective date. MCI is unaware of any significant problem with SBC obtaining test numbers from CLECs that want to put the new NXXs into use as quickly as possible. However, if there are such problems, they can be corrected very quickly (*if* under the CLECs’ control, which facility delivery often is not), and a delay until the next LERG notice is unnecessary if the NXX codes are updated by the original effective date. MCI believes that the metric should follow the market and recognize where most of the loadings related to LERG effective dates exist today -- NXX rehomes.

MCI’s Reply To Staff (Staff Comments, pp. 18-19):

Staff addresses Disputed Issue Numbers 6 and 7 together. See MCI’s response to Issue 7 below.

Disputed Issue 7: Revisions to PM 118 (Average Delay Days for NXX Loading and Testing) to expand the scope.

MCI proposed revisions to PM 118. SBC Midwest opposes the changes.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 35-37):

MCI refers the Commission to the discussion and proposal set forth in MCI's discussion of Disputed Issue 6.

MCI's Reply To Staff (Staff Comments, pp. 18-19):

Staff disagrees with MCI's proposal to modify PMs 117 and 118 to capture NXX rehomes and separate testing and update components in judging timeliness. In addition to MCI's reply to SBC's Initial Comments on this metric, MCI welcomes Staff's suggestion that the proposed addition of rehomes be added to the metric be discussed in the upcoming fourth six-month review. Staff did not address the issue, however, of SBC first proposing to add the exclusions to describe its current process as found by BearingPoint in the 271 proceeding audits, but then deleting them altogether (after MCI objected to some of them) although proposing to still take these exclusions. MCI urges the Commission to make clear that all exclusions pertaining to a metric must be embodied in the metrics exclusion portion of rules and not be simply be deemed by SBC as "intuitive" exclusions CLEC should allow it to take. MCI believes that the Commission should plainly state that exclusions must be explicit in the exclusion portion of the rule will to avoid abuse and end-runs of the metrics developed in the six-month review collaboratives. The Commission can avoid needless litigation by squarely addressing this matter in this proceeding.

Disputed Issue 8: Addition of remedies to PM CLEC BLG-4 (Accuracy of Rate Table Updates).

MCI proposal.² SBC Midwest opposes the addition of remedies to this diagnostic measure.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 38-41):

MCI agrees with the discussion in TDS Metrocom's initial brief regarding (1) the need for the metric to cover *all* of SBC's CLEC billing, and (2) the need for the metric to cover all months for which the SBC rate table was inaccurate. (*See* TDS Initial Brief at pp. 7-9). MCI also notes that TDS has raised a very relevant point about the need for a higher 99% benchmark because SBC only is measuring its rate table accuracy *in the aggregate*, rather than CLEC-by-CLEC. The larger the denominator of billed amounts (as results from an aggregated approach), the harder it is for SBC to fail the metric even though individual CLECs could have been disproportionately burdened by fighting month after month of billing errors due to SBC's inaccurate rate tables.

This is not a new process, but rather one that SBC should already be performing accurately. There is no excuse for SBC's failure to capture new rates provided for in interconnection agreements and Commission orders accurately in its rate tables upon the effective date of these agreements and orders. The benchmark and remedies should be implemented upon the effective date of this metric, and not be delayed for what could be a whole year before the next sixth month review runs its course (including working out the filings on disputed issues). SBC needs benchmarks and remedies to encourage it to be proactive about ensuring the accuracy of its rate tables *before* its errors affect CLECs,

² This was a joint MCI and TDS proposal in Wisconsin. MCI's reply to SBC in the Wisconsin proceeding referred to TDS' brief and position this issue. Consistent with the understanding of MCI and SBC that the parties would file substantially identical comments and reply comments in Illinois that the parties filed in Wisconsin (with the exception of responding to the ICC Staff), MCI has left unchanged references to the TDS Initial Brief that was filed in the Wisconsin proceeding. For the convenience of the ALJ, the Commission and the parties, and to make clear MCI's position in this proceeding, TDS' Initial Brief in the Wisconsin proceeding is appended to these reply comments and identified as **Exhibit 4**.

requiring them to devote substantial resources to auditing their wholesale bills and engaging in SBC's dispute resolution process.³

MCI's Reply To Staff (Staff Comments, pp. 20-21):

Staff disagrees with MCI that this metric should be remedied now. MCI refers the Commission to MCI's reply arguments responding to SBC's Initial Comments. CLECs have had a lot of experience with errors with rate table updates. To wait for the next six month review and possibly a year for an enforcement mechanism for improved performance is a unduly long delay to address an issue so prominent in SBC's state and federal 271 proceedings last year.

Disputed Issue 9: Revisions to PM CLEC BLG-5 (Rate Table Correction Timeliness) to add remedies.

MCI proposal.⁴ SBC Midwest opposes the addition of remedies to this diagnostic measure.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 42-44):

Here again the Commission should not permit SBC to offer to discuss the issue of remedies at the next sixth month review. There is no need to delay a decision on remedies until the next round of disputed issues, as MCI would be surprised if SBC ever voluntarily would agree to remedies on new metrics unless they replace old metrics that have remedies. Meanwhile, CLECs have agreed to eliminate remedied measures in prior six month reviews. SBC is not developing a complicated process here – the company just needs to correct a rate table error brought to its attention by a CLEC before it shows up on the first bill following discovery and notification of the error. (MCI could also accept

³ SBC's dispute resolution process is the subject of additional metrics aimed at improving performance and is part of the disputes filed in both the second and third SBC Midwest six-month PM reviews.

the 30-day interval proposed by TDS at pp. 9-10 of its Initial Brief). If the first rate table metric (Disputed Issue 8) is working well, SBC should have few occurrences of these inaccuracies to handle in this metric.

MCI's Reply To Staff (Staff Comments, p. 22):

Staff disagrees with MCI that this metric should be remedied now. MCI refers the Commission to MCI's reply arguments responding to SBC's Initial Comments. CLECs have had a lot of experience with errors with rate table updates. To wait for the next six month review and possibly a year for an enforcement mechanism for improved performance is a unduly long delay to address an issue so prominent in SBC's state and federal 271 proceedings last year.

Disputes on Proposed Performance Measurements

Disputed Issue 10: Addition of, or an implementation schedule for, a new Billing Accuracy performance measure.

MCI is proposing a Billing Accuracy performance measure that will assess billing accuracy by determining the percent of total billed amount resulting from adjustment activity.⁵ SBC Midwest opposes the implementation of this performance measure.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 46-49):

MCI's Initial Brief addressed the need for a billing accuracy metric that shows how much of the bill was accurate, versus amounts adjusted for past inaccuracies. MCI strongly disagrees with SBC's boilerplate "put this over to the next review" response and SBC's claims that SBC's new billing metrics -- the most crucial of which have no remedies or gigantic loopholes to avoid remedies where they exist -- are sufficient. MCI

⁴ This was a joint MCI and TDS proposal in Wisconsin.

and other CLECs had pressed SBC to implement some kind of measurement *now* (without exclusions for settlements of billing disputes, which are the source of most adjustments) that would replace the current PM 14. SBC's stalling tactics should not go beyond this review.

The Commission should require SBC to adopt the SBC California PM 34 without the excessive exclusions that SBC Midwest proposes to incorporate therein, which do more than just adapt for its bill adjustment process. More preferably, the Commission should adopt MCI's combined Completeness and Accuracy Metric.

MCI's Reply To Staff (Staff Comments, pp. 23-24):

Staff disagrees with MCI's proposal or that the California PM 34 billing accuracy metrics should be implemented now. Billing accuracy is another long-standing problem that was recognized by the Commission and the FCC in the 271 proceedings. MCI observes that SBC did review its processes to determine that it wanted to add more protections for itself than SBC-California had been operating under. (Although SBC-California appears to be trying to exclude settlements from the metric as well as part of its currently on-going six-month review.) Most escalated billing claims are resolved as settlements from MCI's experience, and such a practice could make SBC hold out for settlements at smaller amounts than the original claim rather than concede when CLECs have made a valid claim. In making these and other exclusion proposals, SBC did not justify them by saying its processes were different or explaining why these exclusions should be made. At the very least, the California billing accuracy metric should be added now.

⁵ This was a joint MCI and TDS proposal in Wisconsin.

Disputed Issue 11: Addition of a performance measure to assess Repeat Billing Disputes.

MCI proposal.⁶ SBC Midwest opposes the implementation of a performance measure for Repeat Billing Disputes.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 50-54):

MCI believes that TDS Metrocom has provided excellent examples of how SBC allows CLEC-identified billing errors to continue long after SBC concedes that it is billing the CLEC in error. Like TDS, MCI saw some long-pending billing issues resolved when brought under the regulatory microscope in the state and federal 271 cases. A metric like that advocated by TDS is necessary so that SBC does not let such errors continue for a year to 17 months, as TDS' examples show. MCI believes that TDS' proposal goes beyond the rate table metrics covered in Disputed Issues 8 and 9. Should there be any overlap, as claimed by SBC, MCI would be amenable to excluding rate table error repeats from the repeat dispute metric discussed here so long as the rate table metric mentioned in Disputed Issue No. 8 is remedied and corrected as TDS requests, so that it picks up errors that appear in subsequent months.

MCI's Reply To Staff (Staff Comments, p. 24):

Staff did not address TDS' proposal as TDS did not participate in this proceeding. MCI urges the Commission to adopt this measure in Illinois for the reasons stated in the attached brief filed by TDS in the Wisconsin proceeding as the concerns raised in Wisconsin about repeat billing disputes are equally applicable to Illinois.

Disputed Issue 12: Addition of a performance measure to assess Back Billing.

⁶ This was a TDS proposal in Wisconsin which MCI supported there and supports in this proceedings as well.

MCI proposal.⁷ SBC Midwest opposes the implementation of a performance measure for Back Billing.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 56-60):

MCI proposed addressing back billing as part of its replacement metric proposal for the current PM 14 Billing Accuracy metric. Although SBC may be able to collect from carriers who may not have been paying a known charge over a 24-month period under applicable law or an interconnection agreement provision (*see* SBC Initial Brief at p. 23), such provisions should not condone excessive “surprise” billing, invoiced months from the time the activity charged for had occurred. These charges (often of the non-recurring nature for maintenance and provisioning activities and query activity) are hard to validate as accurate when the invoice arrives months after the event. TDS gives excellent examples of the litany of back billings that show up on CLEC bills (*see* TDS Initial Brief at p. 6), which cause a plethora of financial reporting, cost monitoring, and validation resource headaches. Just when SBC catches up on one backbilling issue, a new one inevitably crops up on its heels. Timely and accurate bills have been recognized as a relevant 271 issue by the FCC, no matter how generous back billing contract and statutory language may be. The Commission should impose a metric with remedies to keep SBC’s “feet to the fire” in this area even after the 271 and special billing collaboratives have ended.

MCI's Reply To Staff (Staff Comments, p. 24):

Staff did not address TDS’ proposal as TDS did not participate in this proceeding. MCI urges the Commission to adopt this measure in Illinois for the reasons stated in the

⁷ This was a TDS proposal in Wisconsin which MCI supported there and supports in this proceedings as well.

attached brief filed by TDS in the Wisconsin proceeding as the concerns raised in Wisconsin about repeat billing disputes are equally applicable to Illinois.

Disputed Issue 13: Addition of a performance measure to assess Billing Disputes Finalized in 90 Days.

MCI proposal.⁸ SBC Midwest opposes the implementation of a performance measure for Billing Disputes Finalized.

MCI's Reply (Ehr Six-Month PM Aff. ¶¶ 61-65):

MCI generally relies on the discussion in its Initial Brief, but wishes to address SBC's claim that the two new billing claims adjustment metrics that SBC proposed to add were enough to ensure CLECs' claims are promptly addressed. MCI disagrees, as these metrics only measure whether CLECs have received an approval or denial of their claims in a timely manner. The proposed PMs provide for no measure of whether SBC paid the appropriate credit (if the claim was approved), or what happens after escalation of a disputed claim (if the claim was denied). MCI proposed measuring the escalation process, but was told that deadlines for that process were still being discussed in the CLEC User Forum ("CUF"). Hopefully, there has been movement and a complete measurement of the bill adjustment process will be implemented. McLeodUSA's metric measures the next basic step for approved claims -- was the agreed-to credit invoiced within 90 days of the filing of the claim.

MCI's Reply To Staff (Staff Comments, p. 25):

Staff did not address McLeodUSA's proposal as McLeodUSA did not participate in this proceeding. MCI urges the Commission to adopt this measure in Illinois for the reasons stated in MCI's Initial Comments.

Disputed Issue 14: Addition of a performance measure to assess the Percent of Open SBC Midwest CLEC Impacting OSS System/Software Defect Reports (DRs) and Change Requests (CRs) Created Per DRs Resolved within “X” Days.

Choice One, MCI and McLeodUSA proposal is being carried to dispute by MCI. SBC Midwest opposes the implementation of a performance measure for DR/CR resolution timeliness.

MCI’s Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 66-74):

First of all, MCI disagrees with SBC’s assertion that the CLECs came back pushing seven metric proposals (six new and one revised) after meeting to consolidate them. (See Attached November 3, 2003 e-mail from Linda Peterman of Choice One, copy attached as **Exhibit 1** hereto). Second, MCI disagrees with SBC’s claims that SBC’s problems addressing Defect Requests (“DRs”) have changed dramatically. As the chart attached as Exhibit 5 to MCI’s Initial Comments showed, SBC still had 125 outstanding DRs to address, many from the last half of 2003. SBC’s only response since the last six month review collaboratives to the CLECs’ request for intervals for DR resolution has been to hold one meeting and to display its DR performance on a web report. However, SBC will not commit to intervals or a performance metric to enforce those intervals with remedies. SBC also still has not provided a document explaining how it concludes that some DRs should be morphed into Change Requests (“CRs”), thus making resolution intervals astronomically longer. SBC’s proposal was to address only DRs that were coded according to SBC’s own IT specifications, but SBC refused to commit to resolving defects related to their incorrect system coding. This is very little progress to be sure.

⁸ This was a McLeodUSA proposal in Wisconsin which MCI supported there and supports in this

Defect Report #68647 is an example of the DR-renamed-CR issue. SBC identified this as a defect on March 25, 2003, and then closed the defect by creating a CR (CR030269) on March 28, 2003. MCI identified this issue in August 2003, when we were affected by over 200 rejects. The problem was a CLEC-impacting default Billing Account Number (“BAN”) defect, causing rejection of UNE-P orders submitted for two Illinois Numbering Plan Areas (“NPAs”), one of which was served out of a Wisconsin central office, and the other of which was serviced out of an Indiana switch. Even though these orders were submitted with the correct BAN information for those NPAs, SBC rejected those orders. SBC’s target date of November 2004 (which, significantly, is not a “committed date”) for correcting this problem created by coding errors in SBC’s software release, means that, at best, SBC will fix this error *some 20 months after it started*. This is wholly unacceptable.

The Commission also should reject SBC’s claim that the FOC interval metric would capture defect problems. Many of the defects stemming from SBC’s software releases cause orders to reject before they would even receive a FOC. As explained in MCI’s Initial Brief, CLECs fear that even where there are workarounds to get past the rejections of their orders, these workarounds require use of a project field that could cause the order to drop out of the FOC (and other metrics) when SBC finally accepts the order. SBC has not put in writing that this fallout has never, and will never, occur with the use of a workaround. Also, some of the errors cause CLECs more work in getting their orders accepted, and this additional consumption of CLEC resources is not abated by receiving FOCs in the longer interval for manually-handled orders (which are what

orders that were originally flow through orders become when a workaround must be used).

In the past, the New York and Florida commissions have stepped in where the ILEC was not giving CLECs their due input into Change Management Processes.⁹ Intervention of this nature has been long called for in the SBC region.

CLECs clearly need a measurement with significant enforcement teeth to ensure that defects in SBC's software releases are corrected in reasonable time frames. If SBC will not agree to the CLECs' proposed severity-based benchmarks (similar to those in effect in the BellSouth region) then the Commission should order those benchmarks here. The Commission should further foreclose SBC from using the loophole of changing a legitimate DR into a CR, as advocated by MCI.

MCI's Reply To Staff (Staff Comments, pp. 25-27):

Staff agrees that the metric proposed by MCI and other CLECs on Defect Resolutions should be implemented, but disagrees that it should be remedied at this time. MCI believes that staff's proposal is a start at getting SBC to correct glitches in CLEC order processing that SBC's errors in programming new releases cause. These errors are different than those captured in metric 124 (which only covers those with no work-around to get the order processed), and MCI is confused footnote 19 in Staff's Comments

⁹ See, e.g., Notice of Proposed Agency Action, Order Implementing Change Request Metrics and Revising Due Date for Tier 1 and Tier 2 Payments and later Consummating Order, Florida Public Service Commission Docket No. 000121A-TP, *In re: Investigation Into the Establishment of Operations Support Systems Permanent Performance Measures for Incumbent Local Exchange Telecommunications Companies* (August 9, 2002; consummated August 13, 2002) (copies attached as **Exhibit 2** hereto); Evaluation of the New York Public Service Commission, *In the Matter of Petition of New York Telephone Company for Approval of its Statement of Generally Available Terms and Conditions Pursuant to Section 252 of the Telecommunications Act of 1996 and Draft Filing of Petition for InterLATA Entry Pursuant to*

which refers to volumes on PM 124 being relevant. SBC now has taken action to propose a new type of DR classification for the problems it used to change to CRs, but resolution intervals for these and other DRs still have not been set. In the interim, the Commission should make sure that for any of the defects where work arounds (those covered by this new metric and not PM 124) are provided that those workarounds do not result in exclusions from other metrics. Such exclusions could occur because that workaround requires a designation in the project field. The workarounds usually require more manual handling of orders and SBC's ability to staff efficiently until it fixes the problems its own release programming has caused should be covered by the flow through, confirmation and rejection and other ordering metrics that the orders using the workaround process will touch. This is especially important while this metric has no applicable benchmark or remedy. Even as a diagnostic, SBC should use the benchmarks proposed by CLECs for the X in the metric to give an idea of how many can be resolved within the intervals proposed by the CLECs. Nevertheless, the wait for remedies to enforce faster resolution of SBC created ordering glitches and inefficiencies should not be prolonged. Accordingly, MCI urges the Commission to adopt MCI proposal in its entirety.

Section 271 of the Telecommunications Act of 1996, FCC CC Docket No. 99-295 (October 19, 1999) at 62-64 (relevant excerpt of 177-page Evaluation attached as **Exhibit 3** hereto).

Disputed Issue 15: Addition of a performance measure to assess the Percent of Change Requests Implemented Within 60 Weeks of Prioritization.

MCI proposal. SBC Midwest opposes the implementation of a performance measure for Percent CRs Implemented.

MCI's Reply To SBC (Ehr Six-Month PM Aff. ¶¶ 75-84):

SBC should be required to devote half of its release space to CLEC CRs, similar to what Florida and New York have required. (*See* Exhibits 2 and 3 hereto). CLECs have proposed an interval similar to that approved by the Florida Commission. SBC clearly prefers its current Change Management Process, where SBC has no deadlines or any obligation to implement any CLEC-proposed change request. CLECs prioritize their requests so that they can communicate to SBC what is important to them as an industry. Under the CLEC proposal here, SBC, like BellSouth, would have the right to argue that some requests are technologically-unfeasible or financially-excessive, and it is only the CRs that passed these hurdles that fall into the prioritized pool for this metric.

MCI does not believe that it submits an excessive number of CRs, nor does MCI seek them frivolously. While MCI has CRs that have been pending longer in other parts of SBC's region, MCI's longest pending CR in the SBC Midwest region is a request to bring the SBC Midwest states and Connecticut in line with Sunday hours of ordering availability in the rest of the SBC territory. Submitted February 14, 2003, CCR03-006 is slated for, but not promised for, May 2004 delivery. If this is the case, this important change (to which SBC has agreed in principle for some time) for MCI and other CLECs with SBC-wide operations still will have taken approximately 63 weeks, at best, before it is implemented. This is simply too long.

CLECs would have dropped their push for this metric if SBC had agreed to the 50/50 verified share that Florida had adopted, even though Florida has both the capacity sharing requirement *and* a metric. SBC now claims that its CMP process has all the input that it needs from CLECs, and SBC does not want to listen to any more input from entities inside or outside the process. SBC will not agree to even these generous time lines for implementing CLEC CRs. Therefore, it is up to the Commission to require SBC to adopt this reasonable CLEC recommendation so that SBC is not the gatekeeper of its own conduct.

MCI's Reply To Staff (Staff Comments, pp. 27-28):

Staff disagrees that this metric should be implemented because the speed at which CLEC Change Requests are implemented will be captured in PM 14. MCI does not understand why staff would believe PM 14 would capture this information. PM 14 only would examine the number of DRs changed to CRs (a process SBC may soon be replacing with a new DR designation) when they are really correcting a software error caused by SBC: i.e. something that worked before stops working without prior notice or agreement of the CLEC when SBC makes software changes. The CRs MCI proposes to be covered in PM 14 would be for process improvements the CLECs would like SBC to make in upcoming software releases. The interval will only be measured after the CLECs prioritize what CRs should go first. BellSouth has metrics virtually similar to PM 14 and PM 15 as they clearly do not cover the same issue. And CLECs have had problems in SBC region with gaining defect corrections and getting new process improvements implemented in a timely manner. So both metrics, enforced by remedies, are needed to ensure that SBC does not let CLEC order languish without improvements

similar to which SBC may from time-to-time improve its own ordering systems or let CLEC ordering systems deteriorate from the status quo due to excessive delays in correcting defects. Accordingly, MCI urges the Commission to adopt MCI's proposal in its entirety.

Disputed PM Issue 16: Whether PM 124 (Timely Resolution of Significant Software Failures Related With Releases) should be Deleted and Replaced with PM 124 (Measurement of Orders Effected By Software Defects Not Resolved Within 48 Hours)

MCI's Initial Comments did not address this issue. MCI takes no position with respect to this issue.

B. Billing Performance Measurements Disputed Issues.

Disputed Billing PM Issue 1: Application of Remedies and Performance Standard for PM BLG-2.

MCI's Reply To SBC (Ehr Billing PM Aff. ¶¶ 6-10):

As explained in the initial comments, the CLECs request that a 95% benchmark, and remedy payments, be added to agreed-upon PM BLG-2. This request is being made because it is critical that SBC Illinois be provided an incentive to acknowledge billing claims within 5 days. Otherwise, the entire billing claims procedure will be delayed by 30 days if SBC Illinois notifies the CLEC, under the PM BLG-3 standard, that the claim has been rejected due to lack of information or other problem that could have been corrected by the CLEC.

SBC Illinois opposes the implementation of the 95% benchmark and remedies for this PM, but its arguments in support of this position have little merit. In his affidavit Mr.

Ehr first states that the system changes being put in place to implement the new business practices will not take place until the first quarter of 2004 (Ehr Billing PM Aff., ¶ 7.a.) However, this is not an adequate explanation of why this metric would be so difficult to implement by the time SBC Illinois will start reporting it. The process agreed to by the parties has been known for several months, and it will be several more months after the state commissions in the SBC region accept the joint filing for this metric to be implemented. The acknowledgment process is not widely different than past practices. Mr. Ehr has failed to supply a sufficient justification as to why SBC would need an additional six months to apply a benchmark and remedies after it starts reporting the metric. The claims that added time is needed to test this process should not be accepted as a valid reason for not adopting the CLECs' recommendation.

As to the lack of competitive impact of SBC Illinois' failure to acknowledge claims within 5 days, MCI would submit that the competitive impact can be substantial. Without a timely acknowledgement that the claim has been received, CLECs will not know whether the claim has been received or simply lost in the system. As noted above, if the claim is "lost" and the CLECs are not timely apprised, the entire billing claim process will be delayed by 30 days. There would be no start date in SBC's system until the CLECs resubmitted the "lost" claims request. Thus, remedies for BLG-3 do not also provide an incentive for compliant behavior in supplying timely acknowledgements. Similar to the problems encountered in the past with faxed ASRs and LSRs, as well as e-mails, losing the request could become a way of extending the time for responding to the claim. When CLECs originally developed the billing metrics they did not expect such problems to occur so they did not propose metrics at this time, but increasingly

competitors are seeing cases where, if the metric only pays remedies at the finish line of the entire process, ways are found to thwart the starting or intermediate notice points to ensure that the CLEC is blocked or burdened.

Mr. Ehr next states that compliance (or lack thereof) with the 5 day notification timeframe has no customer impact (Ehr Billing PM Aff., ¶ 7.c.) MCI disagrees with this conclusion as well. While it is correct that the end user customer may not know SBC Illinois is stalling the adjustment of billing errors at the starting or ending gate, there is an impact down the road on the customers' competitive choices if the CLECs' costs are driven up and they are ultimately driven out of the market. Having to research where unacknowledged claims may be and resubmit them can be very burdensome to the CLEC audit centers. Again, the interval of 5 business days is very generous, and this would likely not be a remedy triggered until performance had become extremely poor. Even if SBC has a record the claim was received and a remedy applied to responding to the entire claim, the initial late response may be a rejection for inadequate information for the CLEC to correct quickly and resubmit the claim.

Finally, Mr. Ehr discusses what he considers to be the duplicative nature of the CLECs' proposed benchmark and remedy payments for PM BLG-2 with those of PM BLG-3 (Ehr Billing PM Aff., ¶¶ 7.d., 8-10). Specifically, Mr. Ehr has argued that the claims receipt notification process is merely a *subprocess* of the entire billing claims procedures, and thus a diagnostic is more appropriate for a portion of a process than benchmarks and remedies. This is simply a rehash of arguments that have been made in the past, and routinely rejected by the CLECs and state commissions alike. Indeed, at the beginning of the collaborative processes being held in many states, the ILECs routinely

argued that there should be no remedies for timely FOCs and order Rejects because these were all a *subprocess* of the provisioning process. This line of reasoning allows the ILECs to divert the focus of the remedy on problem areas that must be corrected for the CLECs to be able to do business. The billing claims process is no different. If SBC Illinois has no incentive to fix the claims acknowledgement process to achieve the proposed benchmark, the CLECs will be burdened with inaccurate bills and will ultimately lose customers as a result of this poor performance.¹⁰

MCI's Reply To Staff (Staff Comments, pp. 30-32):

Staff disagrees that this metric should be remedied now. MCI still believes that SBC has had enough experience in addressing billing claims to make this a remedied metric now. The process proposed here is not greatly different than before to warrant waiting for a benchmark as MCI's reply comments describe, this is a critical metric to ensure that CLECs' disputes are handled promptly. Similar metrics are remedied in both the Verizon and BellSouth regions and such remedies were proposed despite those companies having cleared the 271 hurdle.

Disputed Billing PM Issue 2: Period in which no remedies apply for PM BLG-3.

MCI's Reply To SBC (Ehr Billing PM Aff. ¶¶ 11-15):

At paragraphs 11-15 of his billing PM affidavit, Mr. Ehr argues that a 6 month diagnostic period is appropriate for PM BLG-3 because implementation activities and

¹⁰ Mr. Ehr has argued repeatedly that the untimely acknowledgement of the loading and processing of a claim would lead to delays in meeting the 30 day standard of PM BLG-3, and thus SBC Illinois has no incentive to miss the 5 day standard of PM BLG-2. However, as MCI has repeatedly noted, SBC Illinois is more likely to meet the 30 day standard by rejecting the claim for reasons that could have been rectified in a much shorter period. The CLECs then must resubmit the claim after waiting the full 30 days to find out what happened to it, and the whole purpose of both PM BLG-2 and BLG-3 has been frustrated.

system enhancements will not be complete until first quarter 2004, and the application of remedy payments immediately upon implementation may result in payments being made simply because the systems are not yet working properly.

These arguments are not sufficient justification for a 6 month delay in the application of benchmarks and remedies for this metric. Billing problems in the SBC Midwest region are well documented, and responding to the CLEC-found billing errors at all, let alone in a timely manner, has been a major issue in SBC territory. To allow another six months after implementation of the metric itself (which will take several months after regulatory approval) before applying remedies to enforce this interval is unreasonable considering past problems raised in the SBC 271 proceedings. It may be new to SBC Illinois to respond to billing claims in a timely manner, but this metric has been in the works for quite a while and SBC Illinois should have been working toward improving its systems.

Furthermore, from what MCI has witnessed through the collaborative process, most of the improvements from the billing forum should not involve massive programming and training adjustments. In the past, CLECs have agreed sometimes to diagnostic intervals, just to avoid the resources involved in a dispute resolution fight that possibly could, in and of itself, give SBC Illinois a similar delay in fixing its billing claims processes. In other situations, products and processes are entirely new and need to be monitored to work out a benchmark.¹¹ However, in this case billing claims are not a new process in general, and recent modifications are not equivalent to developing

¹¹ Mr. Ehr uses the implementation of PM 22.1 as a situation where the CLECs agreed to a diagnostic period, and MCI does not dispute that there has been agreement in the past to a deferral of remedies for other metrics. However, PM BLG-3 is not similarly situated, and therefore the CLECs cannot agree to such a period for this metric.

changes to provisioning and ordering databases, methods and procedures. Mr. Ehr has simply not provided a valid reason for a six month delay in the implementation of remedies for PM BLG-3, and as long as this metric remains a diagnostic, there is no real incentive for SBC Illinois to fix its billing claims process.

MCI's Reply To Staff (Staff Comments, pp. 32-33):

Staff disagrees that remedies for this metric should be implemented immediately. MCI hopes the six months started when SBC first implemented the metric under the joint petition. There should be a lot of experience with this metric by the time the next six-month review starts to adopt a remedy as the first item on the agenda. It is simply incredible that CLECs had a special collaborative more than a year ago to address all the billing issues raised in the 271 proceeding, but now its nothing but wait, wait, and wait longer to have the metrics implemented and enforced. MCI respectfully requests that the Commission put an end to the waiting and adopt MCI's proposal on this issue.

Disputed Billing PM Issue 3:	Exclusion of CLECs with 30% or more claim line items denied from Tier 1 remedies for the BLG-3 metric.
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MCI's Reply To SBC (Ehr Billing PM Aff. ¶¶ 16-18):

In support of its position that CLECs with a 30% or more claim reject rate for the past three months should be excluded from the payment of remedies, Mr. Ehr has noted that the claims rejected rate for July, August and September for SBC Midwest has been 82-93% of the claims submitted. It appears to MCI that this bit of information supports the CLEC position rather than SBC Illinois' position -- clearly SBC Illinois will be paying very few remedies for untimely resolved claims regardless of its performance in

sending timely approvals or denials. It bears repeating that the CLECs have absolutely no incentive to submit invalid billing claims, especially during those months when there were no metrics or remedies in place. The CLECs' bill auditing centers have more than enough to do in just reviewing the bills, especially because back billing is high, rate table errors occur, and line losses and usage are usually mismatched. At times it can take up to three years after initial denial to resolve a billing claim with SBC.

In addition, the CLECs have no way of knowing how SBC will deal with resubmitted claims, which may perhaps be rejected or excluded as duplicate claims. Resubmitted claims are to be included in the metric, but the CLECs cannot determine whether they are being included. Even if they are, there is no proviso that SBC will go back and pay remedies to CLECs with 30% or higher rejections in the last three months if these resubmits would bring down the CLEC's overall reject rate. Even if this proviso is added to the business rules, SBC could just reject the resubmitted claims again to avoid paying remedies to the CLECs if that current month's resolutions are untimely. SBC Illinois already has a major incentive to deny claims to avoid paying them, to try to get interest from CLECs the longer they dispute them. For SBC Illinois to also be exempt from remedies due to thwarting the CLECs' ability to get to the level of third-party resolution of billing claims (i.e. by untimely denials as BLG-3 would capture) by simply denying a large number of claims is unacceptable.

MCI's Reply To Staff (Staff Comments, pp. 33-35):

Staff agrees with MCI that this provision allowing SBC to terminate remedies to CLECs with high numbers of rejected claims does not belong in this metric. SBC does not need any more incentive than it already has to reject CLECs' legitimate billing

adjustment claims. Staff is correct that this waiver of remedies has no place in this metric.

Disputed Billing PM Issue 4: CLEC proposal for addition of a measure to assess the timeliness of Post-to-Bill notification, with a 95% in 5 days benchmark, and remedies, and no deletion of current PM 17.

MCI's Reply To SBC (Ehr Billing PM Aff. ¶¶ 20-26):

SBC Illinois makes two points, one of which is a red herring, and the second of which is generally consistent with MCI's position. MCI responded to most of these arguments in their initial comment, but wish to briefly discuss them here.

SBC Illinois first argues that requiring it to adopt MCI's proposed performance benchmark somehow requires the company to make OSS changes. (Ehr Billing PM Aff., ¶¶ 24-25.) MCI proposed no such thing. Indeed, MCI is *indifferent* to what process is used by SBC Illinois for billing notifications, so long as the level of performance is similar to that offered by SBC in other regions and the level of service provided by other companies (such as Verizon, BellSouth and Qwest). There frankly is no valid reason why SBC Illinois seems indifferent to improving its timeliness for providing billing completion notifications when other incumbent providers do such a better job. Since SBC Illinois is seemingly not interested in voluntarily improving its performance to the same level as other providers, it is obvious that an incentive must be provided. The best incentive is adoption of a performance metric such as the one proposed by the CLECs.

SBC Illinois' second argument is that the CLEC proposal is duplicative with SBC's existing measure. (Ehr Billing PM Aff., ¶ 22.) MCI believes this is not the case. However, as was stated in more detail in their initial comments, MCI would not oppose eliminating PM 17 if three conditions are met:

(1) A back billing metric is implemented to get at the billing completeness issues as the CLECs had intended when proposing it years ago;

(2) the above BCN timeliness metric is implemented; and

(3) in order to apply remedies for the BCN timeliness metric, duration periods under the old PM 17 failures prior to implementation would be counted.

In other words, if PM 17 was missed in April, May, June and July and then is replaced by the BCN timeliness metric, the remedy would be set at the duration level if the old PM 17 months of failure are included. This proposal accommodates SBC Illinois' concerns about double counting, but retains an incentive for the company to provide billing completion notices no more slowly than other ILECs.

MCI's Reply To Staff (Staff Comments, pp. 35-37):

Staff supports the 8-day interval and the elimination of remedies for PM 17.1 that was part of a settlement that other CLECs agreed to with SBC. MCI did not join the settlement with the other CLECs because it is receiving Billing Completion Notifications within a much faster interval in Verizon territory and could only agree to a longer interval up to that which SBC Texas was operating under. The settlement also required that the past continuing failures of PM 17.1 be used to calculate the duration remedies where SBC still has remedy plans that increase remedies for chronic failures of the same metric.

While Staff suggests that MCI pursue gaining a shorter interval through the Change Request process, MCI does not hold much hope that this would prove fruitful. MCI and other CLECs had wanted the UNE-P billing done through CABS, and per the usual procedure for Change Requests did not propose how SBC should implement the change. Unfortunately, SBC implemented it by not replacing the ACIS step but by

adding CABs notification on top of the time spent for the order to close to ACIS. MCI does not believe it can file a Change Request to ask SBC to go back and implement a prior change in a more efficient manner. And, without PM 15, there is no measure whether such a change request would ever be implemented, even within a generous 60 months after prioritization by all CLECs. It just not credible to suggest that SBC's own orders take 8 days to close to billing for retail customers -- nor even the 5 days MCI would have accepted. MCI respectfully requests that the Commission adopt MCI's proposal in its entirety.

Disputed Billing PM Issue 5: CLEC-proposal for addition of a diagnostic report (measure) on the percent of claims denied for CLEC aggregate/individual.

MCI's Reply To SBC (Ehr Billing PM Aff. ¶¶ 27-28):

The CLECs have proposed a diagnostic measure for the number of claims rejected each month so that the new metric contained in PM BLG-3 will not incent SBC Illinois to deny claims to avoid remedy payments. As explained by MCI in its Initial Comments, this percent of claims must be monitored by the industry and not only by individual CLECs. Mr. Ehr, on behalf of SBC Illinois, has offered to prepare an individual CLEC report upon request by the CLEC, but has suggested that individual CLECs simply ask other industry participants for information to determine industry-wide results.

This offer by SBC Illinois is insufficient to replace the proposed diagnostic. Again, SBC Illinois' report of the high level of claims denial the last three months shows that an aggregate report would provide useful information to the Commission. The conclusion to be reached from such a report would be that just because claims are being

resolved in 30 days, there still may be many billing problems being escalated and disputed behind the metric. BellSouth in Florida and Georgia provides such a diagnostic report of percent of claims denied and while its rejections are high overall, they are not even as high as the SBC Illinois claims denied levels reported by Mr. Ehr's affidavit. This addition is clearly needed, as CLECs cannot poll every CLEC in SBC's market to see how many claims were rejected each month. Further, MCI cannot understand how an individual report to the CLEC sent separately would be easier than putting this information in the metric report for CLEC-specific activity. Once again, Mr. Ehr has not presented a convincing case for the denial of the diagnostic measure proposed by the CLECs, and his own statistics show that such an addition to PM BLG-3 is necessary.

MCI's Reply To Staff (Staff Comments, pp. 37-38):

Staff disagrees that this diagnostic measure is needed. MCI understands that Staff views this as a tit-for-tat for eliminating SBC's proposed remedy exclusion for BLG-3 when CLECs have high percentages of rejection. And clearly, if MCI has to lose on one of these issues it would be this one. However, MCI hopes that the Staff and the Commission will not oppose CLECs asking SBC to make special reports to upcoming collaboratives after this metric has been in place for a while to see how many of the claims covered by BLG-3 were met with a rejection as SBC's first timely response. This will be an indication of whether SBC is seriously reviewing claims filed by CLECs for bill adjustments or just denying them to meet the benchmarks set for BLDG-3. Nevertheless, MCI urges the Commission to adopt MCI's position in its entirety on this issue.

Conclusion

For all of these reasons cited above and in its Initial Comments, MCI respectfully urges the Commission to resolve the disputed issues consistent with MCI's recommendations in this proceeding.

Dated: June 2, 2004

MCI, Inc.

/s/

Darrell Townsley
MCI
205 North Michigan Avenue
11th Floor
Chicago, IL 60601
312-260-3533